

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHARLES RUSSELL;
CHRISTOPHER HUBBARD;
HARRY WHITE; CARL
SMELLEY; SHANE CARLINE;
and COURTNEY WHITE,
individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

WAYNE COUNTY, MICHIGAN;
BENNY NAPOLEON, in his official
capacity as Sheriff of Oakland County;
DANIEL PFANNES, in his official
capacity as the Undersheriff for the
Wayne County Sheriff's
Office; ROBERT DUNLAP, in his
official capacity as Chief of Jails and
Court Operations; JAMES E. DAVIS,
in his official capacity as Deputy Chief
of Jail Operations,

Defendants.

Case No. 2:20-cv-11094
Hon. Mark A. Goldsmith

PLAINTIFFS' MOTION FOR STAY PROCEEDINGS

Plaintiffs respectfully request this Court stay proceedings in this action pending the resolution of a motion filed in *Wayne County Jail Inmates, et al. v. William Lucas, et al.*, Case No. 71 173 217 CZ, or upon motion of either Party in this matter. Pursuant to Local Rule 7.1(a), Plaintiffs have conferred with Defendants

prior to filing this Motion, which Defendants indicate they oppose.

Plaintiffs filed this action in this Court on May 4, 2020. Heeding the suggestion of this Court, the parties subsequently engaged in discussions as to whether Plaintiffs could seek relief in state court, where Defendant Wayne County is a party to a consent decree that monitors the quality of conditions at the Wayne County Jail (“the Jail”). On May 27, 2020, at the request of the parties, the Circuit Court for Wayne County entered a joint stipulated order to reopen the case underlying the state consent decree, *Wayne County Inmates, et al. v. Lucas, et al.* On May 28, 2020, Plaintiffs filed an Emergency Motion for Temporary Restraining Order in the *Lucas* action. Defendants’ response to Plaintiffs’ Emergency Motion is due on June 5, 2020; a hearing on the Emergency Motion has not yet been scheduled.

Plaintiffs accordingly seek a stay of this action. The Sixth Circuit has found a stay to be appropriate in similar circumstances. For instance, it has held that a stay is appropriate where concurrent state and federal actions are parallel, meaning that “the parties are substantially similar” and the claims in each case “are predicated on the same material allegations as to the same material facts.” *Romine v. Compuserve Corp.*, 160 F.3d 337, 340 (6th Cir. 1998). In circumstances like these, “issuing a stay has been the general practice.” *Bates v. Van Buren Tp.*, 122 Fed. App’x 803, 808, 2004 WL 2792483 at *5 (6th Cir. 2004) (citing *Romine*, 160 F.3d at 338) (citing *Holmes Financial Associates, Inc. v. Resolution Trust Corp.*, 33 F.3d 561, 562 (6th

Cir.1994)).

This Court need not stray from that general practice, as a stay is warranted here. Plaintiffs in the *Lucas* actions are an already-certified class of all current and future detainees at the Jail, and Defendants in that action include Wayne County and the Wayne County Sherriff. As Defendants have noted, the parties in *Russell*—a putative class of detainees at the Jail—and Defendants—Wayne County, officials from the Wayne County Sherriff, and jail officials—are identical to the parties in this action. Moreover, Plaintiffs’ Emergency Motion, filed in the *Lucas* action, is premised on the same material allegations made in this Court and seeks similar relief. A stay of this action pending resolution of Plaintiffs’ claims in *Lucas* is thus appropriate. *See Romine*, 160 F.3d at 341 (noting that the possibility of duplicative class action litigation is a circumstance that particularly warrants a stay); *see Bates*, 122 Fed. App’x at 808 (citing *Mahaffey v. Bechtel Assoc. Prof’l Corp.*, 699 F.2d 545, 546–47 (D.C.Cir.1983) (holding that a stay is required because it “effectively conserve[s] court resources while avoiding premature rejection of the litigants’ access, as specified by statute, to a federal forum”).

CONCLUSION

For the reasons set forth, Plaintiffs request that this Honorable Court stay this case pending resolution of *Wayne County Inmates, et al. v. Lucas, et al.*, or upon motion of either Party in this matter.

Respectfully submitted,

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*Applications for admission forthcoming

DATED: June 4, 2020

LOCAL RULE CERTIFICATION

I, Allison L. Kriger, certify that this document complies with Local Rule 5.1(a), including: double-spaced (except for quoted materials and footnotes); at least one-inch margins on the top, sides, and bottom; consecutive page numbering; and type size of all text and footnotes that is no smaller than 10-1/2 characters per inch (for non-proportional fonts) or 14 point (for proportional fonts). I also certify that it is the appropriate length. Local Rule 7.1(d)(3).

/s/ Allison L. Kriger
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